



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**            **The Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019**

**DATE**            **27 June 2019**

**BY**                **Rebecca Evans AM, Minister for Finance and Trefnydd**

### **The Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019**

#### **The Law which is being amended**

- The Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019;
- The Trade in Animals and Related Products Regulations 2011 (not applicable to Wales);
- The Trade in Animals and Related Products (Northern Ireland) Regulations 2011 (not applicable to Wales, and
- The Veterinary Surgeons and Animal Welfare (Amendment) (EU Exit) Regulations 2019.

#### European Directly Applicable instruments amended by the 2019 Regulations

- Commission Regulation (EC) No 136/2004
- Commission Decision 2006/168/EC
- Commission Decision 2006/766/EC
- Commission Decision 2007/777/EC
- Commission Regulation (EC) No 798/2008
- Commission Regulation (EC) No 119/2009
- Commission Regulation (EU) No 206/2010
- Commission Decision 2010/472/EC
- Commission Regulation (EU) 605/2010
- Commission Decision 2011/163/EC
- Commission Implementing Decision 2011/630/EC
- Commission Implementing Decision 2012/137/EC
- Commission Implementing Regulation (EU) 139/2013

- Commission Implementing Regulation 2016/759
- Commission Implementing Regulation 2018/659

### **The purpose of the amendments**

Third countries currently apply to the Commission in order to be listed as a country that Member States can import from, and set the requirements that must be met by those countries in order to be retained on the list. Such classification of an exporting country's risk status will now have to be agreed by the UK for countries which the UK can import from. It is unlikely that an exporting country would apply to the 4 UK administrations separately, and as there are no Border Inspection Posts in Wales, any animals or animal related products would likely be received into England in the first instance, and would have to meet the classification requirements of England ahead of those requirements of Wales. Therefore, one list will be held and applications will be made to the Secretary of State. The Secretary of State can then only act with the other Ministers' consent (the Welsh Ministers and the other devolved administrations) in doing so. The change in the requirements of a country would only be in response to bio-security risk, so an efficient and immediate response across the whole of the UK is required for such situations.

The 2019 Regulations ensure that the relevant third country lists can be amended. This power is required for the United Kingdom to harmonise our animal health legislation with the EU in the event that the UK leaves the EU without a negotiated agreement, and for the United Kingdom to facilitate trade with new third countries.

The 2019 Regulations also make a minor amendment to correct a cross-reference to the Veterinary Surgeons and Animal Welfare (Amendment) (EU Exit) Regulations 2019, 'the Veterinary Surgeons Instrument. In relation to this, the regulation of veterinary surgeons' profession is a reserved matter under section G1 of Part 2 of Schedule 7A to the Government of Wales Act 2006.

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available here: <https://beta.parliament.uk/work-packages/4uBo9Ohy>

### **Any impact the SI may have on the legislative competence of the National Assembly for Wales**

The 2019 Regulations contain provisions which enable the Secretary of State, in place of the European Commission, to exercise legislative/administrative functions in relation to the whole of the UK. Part 2 of the Regulations transfer to the Secretary of State fifteen legislative functions which enable the Secretary of State to make regulations in relation to the UK but only if the consent of the Welsh Ministers and other devolved administrations is obtained to the making of the legislation. The regulation making power permits UK lists of approved third countries to be amended so that third countries can be added, varied or removed from the list. In addition, before make Regulations the Secretary of State must have regard to the views of the relevant authorities (Welsh Ministers, Scottish Ministers and Northern Ireland (within the meaning of the Northern Ireland Act 1998 or a Northern Ireland department). This is intended to enable Welsh Ministers to request that the Secretary of State exercise the UK-wide power, with the Secretary of State required to give due

consideration to such a request. Consent powers will relate to the removal or variation of the list of a third country; depending on, for instance, new or existing biosecurity risks, or the country's rules on animal-disease prevention and control. Part 5 transfers administrative functions to the Secretary of State. It sets out the veterinary checks list of animals and products that are to be published by the Secretary of State with the consent of Welsh Ministers under a joint decision making process. The Secretary of State with the consent of Welsh Ministers may publish and amend (where required) a list of animals and products subject to veterinary import checks and a lists of composite products and foodstuffs that are exempt from such checks.

Trade in animals and related products is a devolved function. Areas relating to imports fall within the prohibition and regulation of imports and exports which is a reserved matter under paragraph 71 of Schedule 7A to the Government of Wales Act 2006. However, there are certain exceptions, including the prohibition and movement into and out of Wales of food, plants, animals and related things for the purpose of protecting human, animal or plant health, animal welfare or the environment.

Functions transferred to the Secretary of State with consent may constitute functions of a Minister of the Crown for the purposes Schedule 7B to GoWA 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government.

### **Any impact the SI may have on the Welsh Ministers' executive competence**

The 2019 Regulations will broaden the Welsh Ministers' executive competence in light of the new functions of requesting that regulations be made by the Secretary of State and consent in respect of the regulations

### **Why consent was given**

As set out above, the 2019 Regulations ensure we have the powers to amend the relevant third country lists. This power is required for the United Kingdom to harmonise our animal health legislation with the EU in the event that the UK leaves the EU without a negotiated agreement, and for the United Kingdom to facilitate trade with new third countries. The 2019 Regulations also make a minor amendment to correct a cross-reference to the Veterinary Surgeons and Animal Welfare (Amendment) (EU Exit) Regulations 2019, 'the Veterinary Surgeons Instrument.